IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10095 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATKUMAR R JADAV

Versus

STATE OF GUJARAT

Appearance:

MR DM THAKKAR for Petitioner

MR SAMIR J DAVE for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/02/2001

ORAL JUDGEMENT

#. Having heard the learned counsel for the parties, I am satisfied that this matter deserves acceptance. But I am constrained to observed that in these detention matters, the State of Gujarat, an impersonal machinery and its officers it are not taking any interest. For

these two inferences can possibly drawn. One is the negligence, carelessness or recklessness of the officers in discharge of their duties which they owe to the people or there is connivance with these persons who involved in this activity of selling liquor in the State where there is total prohibition. However, it is the matter for consideration of the State of Gujarat and not for this court.

#. One of the contentions has been raised by the learned counsel for the petitioner challenging the order of the District Magistrate, Valsad, under which the petitioner was ordered to be detained as a bootlegger is that copies of statements of witnesses recorded under section 161 of Cr.P.C. were not given to the petitioner and as a result of which, he has been deprived of his valuable right of making effective representation against the detention order as guaranteed to him under Article 22 (5) of the Constitution of India. In the representation which has been submitted by the petitioner against the detention order, he made this grievance also to the detaining authority.

#. Reply to the special civil application is there on behalf of the District Magistrate, Valsad and therein he felt content and satisfied by stating that the documents which he considered for passing of the detention order, copies thereof have been supplied to the petitioner. This is wholly unsatisfactory reply by the detaining authority. Documents namely, statements of witnesses recorded under section 161 in the criminal complaint which have been made basis for detention of the petitioner are certainly vital and important documents for him for making effective representation and nonsupply thereof results in depriving him his valuable right of making effective representation as guaranteed to him under Article 22 (5) of the Constitution of India against the detention order. Only on this ground this petition succeeds and the same is allowed.

#. In the result, this petition succeeds and the same is allowed. The order of detention or the petitioner dated 11-9-2000 is quashed and set aside. The petitioner Bharatkumar R. Jadav, the detenu, at present in Ahmedabad Central Jail, Ahmedabad be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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zgs/-